

SENATE BILL No. 436

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-24-5.3; IC 35-43-2-2; IC 36-1-6-4; IC 36-7.

Synopsis: Vacant and abandoned property. Applies restrictions on purchasing real property at a tax sale to persons who have a fee interest, a life estate interest, or the equitable interest of a contract purchaser in a vacant or an abandoned structure subject to certain enforcement orders. Makes it criminal trespass, a Class A misdemeanor, for a person: (1) not having a contractual interest in property, to knowingly or intentionally enter or refuse to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is vacant or designated by a municipality or county enforcement authority to be abandoned property and subject to an abatement order; or (2) to knowingly or intentionally enter the property of another person after being denied entry by a court order when the property has been designated by a municipality or county enforcement authority to be vacant property or abandoned property subject to an abatement order. Requires a court to grant a municipal corporation a continuous enforcement order that authorizes specific ongoing abatement activities on certain types of property as a part of an order enforcing an ordinance concerning a condition or use of property. Requires a hearing authority to grant an enforcement authority a continuous enforcement order that authorizes specific ongoing compliance and enforcement activities on certain unsafe premises as a part of an order enforcing an ordinance concerning a condition or use of the unsafe premises. Provides that if a second or subsequent judgment in a civil action regarding unsafe premises is entered against an owner during any two year period, a court may order the owner to

(Continued next page)

C
o
p
y

Effective: July 1, 2009.

Miller

January 12, 2009, read first time and referred to Committee on Judiciary.



pay treble damages based on the costs of the ordered action. Allows an enforcement authority to issue an order requiring the removal of an unsafe building if the: (1) general condition of the building warrants removal; or (2) building continues to require reinspection and additional abatement action after an initial abatement action was taken pursuant to notice and an order. Allows an unsafe building law enforcement authority to require owners to abate conditions on certain vacant structures and abandoned structures. Provides that an owner of property that remains a vacant structure or an abandoned structure for at least 90 consecutive calendar days may be liable for certain fines.

**C
o
p
y**



Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 436

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-24-5.3, AS AMENDED BY P.L.169-2006,
2 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 5.3. (a) This section applies to the following:

4 (1) A person who:

5 (A) owns a fee interest, a life estate interest, or the equitable
6 interest of a contract purchaser in an unsafe building or unsafe
7 premises in the county in which a sale is held under this
8 chapter; and

9 (B) is subject to an order issued under IC 36-7-9-5(a)(2),
10 IC 36-7-9-5(a)(3), IC 36-7-9-5(a)(4), or IC 36-7-9-5(a)(5)
11 regarding which the conditions set forth in IC 36-7-9-10(a)(1)
12 through IC 36-7-9-10(a)(4) exist.

13 (2) A person who:

14 (A) owns a fee interest, a life estate interest, or the equitable
15 interest of a contract purchaser in an unsafe building or unsafe

C
O
P
Y



premises in the county in which a sale is held under this chapter; and

(B) is subject to an order issued under IC 36-7-9-5(a), other than an order issued under IC 36-7-9-5(a)(2), IC 36-7-9-5(a)(3), IC 36-7-9-5(a)(4), or IC 36-7-9-5(a)(5), regarding which the conditions set forth in IC 36-7-9-10(b)(1) through IC 36-7-9-10(b)(4) exist.

(3) A person who is the defendant in a court action brought under IC 36-7-9-18, IC 36-7-9-19, IC 36-7-9-20, IC 36-7-9-21, or IC 36-7-9-22 in the county in which a sale is held under this chapter that has resulted in a judgment in favor of the plaintiff and the unsafe condition that caused the action to be brought has not been corrected.

(4) A person who has any of the following relationships to a person, partnership, corporation, or legal entity described in subdivisions (1), (2), or (3):

(A) A partner of a partnership.

(B) An officer or majority stockholder of a corporation.

(C) The person who directs the activities or has a majority ownership in a legal entity other than a partnership or corporation.

(5) A person who, in the county in which a sale is held under this chapter, owes:

(A) delinquent taxes;

(B) special assessments;

(C) penalties;

(D) interest; or

(E) costs directly attributable to a prior tax sale;

on a tract or an item of real property listed under section 1 of this chapter.

(6) A person who owns a fee interest, a life estate interest, or the equitable interest of a contract purchaser in a vacant or an abandoned structure subject to an enforcement order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36.

~~(6)~~ (7) A person who is an agent of the person described in this subsection.

(b) A person subject to this section may not purchase a tract offered for sale under section 5 or 6.1 of this chapter. However, this section does not prohibit a person from bidding on a tract that is owned by the person and offered for sale under section 5 of this chapter.

(c) The county treasurer shall require each person who will be

C
o
p
y



bidding at the tax sale to sign a statement in a form substantially similar to the following:

"Indiana law prohibits a person who owes delinquent taxes, special assessments, penalties, interest, or costs directly attributable to a prior tax sale from purchasing tracts or items of real property at a tax sale. I hereby affirm under the penalties for perjury that I do not owe delinquent taxes, special assessments, penalties, interest, costs directly attributable to a prior tax sale, amounts from a final adjudication in favor of a political subdivision in this county, any civil penalties imposed for the violation of a building code or ordinance of this county, or any civil penalties imposed by a health department in this county. Further, I hereby acknowledge that any successful bid I make in violation of this statement is subject to forfeiture. In the event of forfeiture, the amount of my bid shall be applied to the delinquent taxes, special assessments, penalties, interest, costs, judgments, or civil penalties I owe, and a certificate will be issued to the county executive."

(d) If a person purchases a tract that the person was not eligible to purchase under this section, the sale of the property is subject to forfeiture. If the county treasurer determines or is notified not more than six (6) months after the date of the sale that the sale of the property should be forfeited, the county treasurer shall:

- (1) notify the person in writing that the sale is subject to forfeiture if the person does not pay the amounts that the person owes within thirty (30) days of the notice;
- (2) if the person does not pay the amounts that the person owes within thirty (30) days after the notice, apply the surplus amount of the person's bid to the person's delinquent taxes, special assessments, penalties, and interest;
- (3) remit the amounts owed from a final adjudication or civil penalties in favor of a political subdivision to the appropriate political subdivision; and
- (4) notify the county auditor that the sale has been forfeited.

Upon being notified that a sale has been forfeited, the county auditor shall issue a certificate to the county executive under section 6 of this chapter.

(e) A county treasurer may decline to forfeit a sale under this section because of inadvertence or mistake, lack of actual knowledge by the bidder, substantial harm to other parties with interests in the tract or item of real property, or other substantial reasons. If the treasurer declines to forfeit a sale, the treasurer shall:

**C
O
P
Y**



(1) prepare a written statement explaining the reasons for declining to forfeit the sale; and

(2) retain the written statement as an official record.

(f) If a sale is forfeited under this section and the tract or item of real property is redeemed from the sale, the county auditor shall deposit the amount of the redemption into the county general fund and notify the county executive of the redemption. Upon being notified of the redemption, the county executive shall surrender the certificate to the county auditor.

SECTION 2. IC 35-43-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A person who:

(1) not having a contractual interest in the property, knowingly or intentionally enters the real property of another person after having been denied entry by the other person or that person's agent;

(2) not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or that person's agent;

(3) accompanies another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;

(4) knowingly or intentionally interferes with the possession or use of the property of another person without the person's consent;

(5) not having a contractual interest in the property, knowingly or intentionally enters the dwelling of another person without the person's consent; ~~or~~

(6) knowingly or intentionally:

(A) travels by train without lawful authority or the railroad carrier's consent; and

(B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;

(7) not having a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is:

(A) vacant or designated by a municipality or county enforcement authority to be abandoned property; and

(B) subject to an abatement order under IC 32-30-6,

C
o
p
y



**IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36; or
(8) knowingly or intentionally enters the property of another
person after being denied entry by a court order when the
property:**

**(A) has been designated by a municipality or county
enforcement authority to be a vacant property or an
abandoned property; and**

**(B) is subject to an abatement order under IC 32-30-6,
IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36;**

commits criminal trespass, a Class A misdemeanor. However, the offense is a Class D felony if it is committed on a scientific research facility, on school property, or on a school bus or the person has a prior unrelated conviction for an offense under this section concerning the same property.

(b) A person has been denied entry under subdivision (a)(1) of this section when the person has been denied entry by means of:

(1) personal communication, oral or written; ~~or~~

(2) posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public; **or**

**(3) a hearing authority or court order under IC 32-30-6,
IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36.**

(c) A person violates subsection (a)(7) unless the person has the written permission of the owner, owner's agent, enforcement authority, or court to come onto the property for purposes of performing maintenance, repair, or demolition.

(d) A person violates subsection (a)(8) unless the court that issued the order denying the person entry grants permission for the person to come onto the property.

~~(c)~~ **(e) Subsections (a), ~~and~~ (b), (c), and (d) do not apply to the following:**

(1) A passenger on a train.

(2) An employee of a railroad carrier while engaged in the performance of official duties.

(3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.

(4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.

(5) A person on the station grounds or in the depot of a railroad carrier:

**C
o
p
y**



- 1 (A) as a passenger; or
- 2 (B) for the purpose of transacting lawful business.
- 3 (6) A:
- 4 (A) person; or
- 5 (B) person's:
- 6 (i) family member;
- 7 (ii) invitee;
- 8 (iii) employee;
- 9 (iv) agent; or
- 10 (v) independent contractor;
- 11 going on a railroad's right-of-way for the purpose of crossing at a
- 12 private crossing site approved by the railroad carrier to obtain
- 13 access to land that the person owns, leases, or operates.
- 14 (7) A person having written permission from the railroad carrier
- 15 to go on specified railroad property.
- 16 (8) A representative of the Indiana department of transportation
- 17 while engaged in the performance of official duties.
- 18 (9) A representative of the federal Railroad Administration while
- 19 engaged in the performance of official duties.
- 20 (10) A representative of the National Transportation Safety Board
- 21 while engaged in the performance of official duties.
- 22 SECTION 3. IC 36-1-6-4, AS AMENDED BY P.L.194-2007,
- 23 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 24 JULY 1, 2009]: Sec. 4. (a) A municipal corporation may bring a civil
- 25 action as provided in IC 34-28-5-1 if a person:
- 26 (1) violates an ordinance regulating or prohibiting a condition or
- 27 use of property; or
- 28 (2) engages in conduct without a license or permit if an ordinance
- 29 requires a license or permit to engage in the conduct.
- 30 (b) A court may take any appropriate action in a proceeding under
- 31 this section, including any of the following actions:
- 32 (1) Issuing an injunction.
- 33 (2) Entering a judgment.
- 34 (3) Ordering an inspection.
- 35 (4) Ordering a property vacated.
- 36 (5) Imposing a penalty not to exceed an amount set forth in
- 37 IC 36-1-3-8(a)(10).
- 38 (6) Imposing court costs and fees in accordance with IC 33-37-4-2
- 39 and IC 33-37-5.
- 40 (7) Ordering a defendant to take appropriate action to bring a
- 41 property into compliance with an ordinance within a specified
- 42 time.

C
o
p
y



(8) Ordering a municipal corporation to take appropriate action to bring a property into compliance with an ordinance in accordance with IC 36-1-6-2.

(9) Ordering a property demolished.

(c) As a part of an order issued under this section, a court shall grant the municipal corporation a continuous enforcement order that authorizes specific ongoing compliance and enforcement activities if a property requires reinspection or additional periodic abatement. The municipal corporation may assess and collect ongoing costs of these activities from any party subject to the court's order. Additional notice or a hearing is not required for an action or a fee assessment approved under the continuous enforcement order.

SECTION 4. IC 36-7-9-5, AS AMENDED BY P.L.88-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The enforcement authority may issue an order requiring action relative to any unsafe premises, including:

- (1) vacating of an unsafe building;
- (2) sealing an unsafe building against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;
- (3) extermination of vermin in and about the unsafe premises;
- (4) removal of trash, debris, fire hazardous material, or a public health hazard in and about the unsafe premises;
- (5) repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under IC 4-22-2, or an ordinance;
- (6) **demolition and** removal of part of an unsafe building;
- (7) **demolition and** removal of an unsafe building **if the:**
 - (A) general condition of the building warrants removal; or**
 - (B) building continues to require reinspection and additional abatement action after an initial abatement action was taken pursuant to notice and an order; and**
- (8) requiring, for an unsafe building that will be sealed for a period of more than ninety (90) days:
 - (A) sealing against intrusion by unauthorized persons and the effects of weather;
 - (B) exterior improvements to make the building compatible in appearance with other buildings in the area; and
 - (C) continuing maintenance and upkeep of the building and premises;

C
o
p
y



in accordance with standards established by ordinance.
 Notice of the order must be given under section 25 of this chapter. The
 ordered action must be reasonably related to the condition of the unsafe
 premises and the nature and use of nearby properties. The order
 supersedes any permit relating to building or land use, whether that
 permit is obtained before or after the order is issued.

(b) The order must contain:

- (1) the name of the person to whom the order is issued;
- (2) the legal description or address of the unsafe premises that are
the subject of the order;
- (3) the action that the order requires;
- (4) the period of time in which the action is required to be
accomplished, measured from the time when the notice of the
order is given;
- (5) if a hearing is required, a statement indicating the exact time
and place of the hearing, and stating that person to whom the
order was issued is entitled to appear at the hearing with or
without legal counsel, present evidence, cross-examine opposing
witnesses, and present arguments;
- (6) if a hearing is not required, a statement that an order under
subsection (a)(2), (a)(3), (a)(4), or (a)(5) becomes final ten (10)
days after notice is given, unless a hearing is requested in writing
by a person holding a fee interest, life estate interest, or equitable
interest of a contract purchaser in the unsafe premises, and the
request is delivered to the enforcement authority before the end
of the ten (10) day period;
- (7) a statement briefly indicating what action can be taken by the
enforcement authority if the order is not complied with;
- (8) a statement indicating the obligation created by section 27 of
this chapter relating to notification of subsequent interest holders
and the enforcement authority; and
- (9) the name, address, and telephone number of the enforcement
authority.

(c) The order must allow a sufficient time, of at least ten (10) days,
but not more than sixty (60) days, from the time when notice of the
order is given, to accomplish the required action. If the order allows
more than thirty (30) days to accomplish the action, the order may
require that a substantial beginning be made in accomplishing the
action within thirty (30) days.

(d) The order expires two (2) years from the day the notice of the
order is given, unless one (1) or more of the following events occurs
within that two (2) year period:

**C
O
P
Y**



(1) A complaint requesting judicial review is filed under section 9 of this chapter.

(2) A contract for action required by the order is let at public bid under section 11 of this chapter.

(3) A civil action is filed under section 17 of this chapter.

SECTION 5. IC 36-7-9-7, AS AMENDED BY P.L.169-2006, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) A hearing must be held relative to each order of the enforcement authority, except for an order issued under section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter. An order issued under section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter becomes final ten (10) days after notice is given, unless a hearing is requested before the ten (10) day period ends by a person holding a fee interest, life estate interest, mortgage interest, or equitable interest of a contract purchaser in the unsafe premises. The hearing shall be conducted by the hearing authority.

(b) The hearing shall be held on a business day no earlier than ten (10) days after notice of the order is given. The hearing authority may, however, take action at the hearing, or before the hearing if a written request is received by the enforcement authority not later than five (5) days after notice is given, to continue the hearing to a business day not later than fourteen (14) days after the hearing date shown on the order. Unless the hearing authority takes action to have the continued hearing held on a definite, specified date, notice of the continued hearing must be given to the person to whom the order was issued at least five (5) days before the continued hearing date, in the manner prescribed by section 25 of this chapter. If the order being considered at the continued hearing was served by publication, it is sufficient to give notice of the continued hearing by publication unless the enforcement authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

(c) The person to whom the order was issued, any person having a substantial property interest in the unsafe premises that are the subject of the order, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Each person appearing at the hearing is entitled to present evidence, cross-examine opposing witnesses, and present arguments.

(d) At the conclusion of any hearing at which a continuance is not granted, the hearing authority may make findings and take action to:

(1) affirm the order;

(2) rescind the order; or

C
o
p
y



(3) modify the order, but unless the person to whom the order was issued, or counsel for that person, is present at the hearing, the hearing authority may modify the order in only a manner that makes its terms less stringent.

(e) In addition to affirming the order, in those cases in which the hearing authority finds that there has been a willful failure to comply with the order, the hearing authority may impose a civil penalty in an amount not to exceed five thousand dollars (\$5,000). The effective date of the civil penalty may be postponed for a reasonable period, after which the hearing authority may order the civil penalty reduced or stricken if the hearing authority is satisfied that all work necessary to fully comply with the order has been done. For purposes of an appeal under section 8 of this chapter or enforcement of an order under section 17 of this chapter, action of the hearing authority is considered final upon the affirmation of the order, even though the hearing authority may retain jurisdiction for the ultimate determination related to the civil penalty. In the hearing authority's exercise of continuing jurisdiction, the hearing authority may, in addition to reducing or striking the civil penalty, impose one (1) or more additional civil penalties in an amount not to exceed five thousand dollars (\$5,000) per civil penalty. An additional civil penalty may be imposed if the hearing authority finds that:

(1) significant work on the premises to comply with the affirmed order has not been accomplished; and

(2) the premises have a negative effect on property values or the quality of life of the surrounding area or the premises require the provision of services by local government in excess of the services required by ordinary properties.

(f) ~~If, at a hearing,~~ A person to whom an order has been issued ~~requests may request at a hearing~~ an additional period to accomplish action required by the order. ~~and shows~~ **If good cause for this request to be granted, is shown,** the hearing authority may grant the request **for one (1) additional period that does not exceed the length of the period originally ordered.** However, as a condition for allowing the additional period, the hearing authority ~~may~~ **shall** require that the person post a performance bond to be forfeited if the action required by the order is not completed within the additional period.

(g) **If an order is affirmed or modified, the hearing authority shall issue an order that authorizes the enforcement authority to conduct specific ongoing compliance and enforcement activities if a property requires reinspection or additional periodic abatement. The enforcement authority may assess and collect ongoing costs of**

C
o
p
y



1 **these activities from any party subject to the hearing authority's**
 2 **order. Additional notice or a hearing is not required for any action**
 3 **or fee assessment approved under the continuous authorization**
 4 **order.**

5 ~~(g)~~ **(h)** The board or commission having control over the department
 6 shall, at a public hearing, after having given notice of the time and
 7 place of the hearing by publication in accordance with IC 5-3-1, adopt
 8 a schedule setting forth the maximum amount of performance bonds
 9 applicable to various types of ordered action. The hearing authority
 10 shall use this schedule to fix the amount of the performance bond
 11 required under subsection (f).

12 ~~(h)~~ **(i)** The record of the findings made and action taken by the
 13 hearing authority at the hearing shall be available to the public upon
 14 request. However, neither the enforcement authority nor the hearing
 15 authority is required to give any person notice of the findings and
 16 action.

17 ~~(i)~~ **(j)** If a civil penalty under subsection (e) is unpaid for more than
 18 fifteen (15) days after payment of the civil penalty is due, the civil
 19 penalty may be collected from any person against whom the hearing
 20 officer assessed the civil penalty or fine. A civil penalty or fine may be
 21 collected under this subsection in the same manner as costs under
 22 section 13 or 13.5 of this chapter. The amount of the civil penalty or
 23 fine that is collected shall be deposited in the unsafe building fund.

24 **SECTION 6. IC 36-7-9-17 IS AMENDED TO READ AS**
 25 **FOLLOWS [EFFECTIVE JULY 1, 2009]:** Sec. 17. (a) The department,
 26 acting through its enforcement authority, a person designated by the
 27 enforcement authority, or a community organization may bring a civil
 28 action regarding unsafe premises in the circuit, superior, or municipal
 29 court of the county. The department is not liable for the costs of such
 30 an action. The court may grant one (1) or more of the kinds of relief
 31 authorized by sections 18 through 22 of this chapter.

32 (b) A civil action may not be initiated under this section before the
 33 final date of an order or an extension of an order under section 5(c) of
 34 this chapter requiring:

35 (1) the completion; or

36 (2) a substantial beginning toward accomplishing the completion;
 37 of the required remedial action.

38 (c) A community organization may not initiate a civil action under
 39 this section if:

40 (1) the enforcement authority or a person designated by the
 41 enforcement authority has filed a civil action under this section
 42 regarding the unsafe premises; or

C
O
P
Y



(2) the enforcement authority has issued a final order that the required remedial action has been satisfactorily completed.

(d) A community organization may not initiate a civil action under this section if the real property that is the subject of the civil action is located outside the specific geographic boundaries of the area defined in the bylaws or articles of incorporation of the community organization.

(e) At least sixty (60) days before commencing a civil action under this section, a community organization must issue a notice by certified mail, return receipt requested, that:

(1) specifies:

(A) the nature of the alleged nuisance;

(B) the date the nuisance was first discovered;

(C) the location on the property where the nuisance is allegedly occurring;

(D) the intent of the community organization to bring a civil action under this section; and

(E) the relief sought in the action; and

(2) is provided to:

(A) the owner of record of the premises;

(B) tenants located on the premises;

(C) the enforcement authority; and

(D) any person that possesses an interest of record.

(f) In any action filed by a community organization under this section, a court may award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party.

(g) If a second or subsequent civil judgment is entered under this section:

(1) against an owner of a known or recorded fee interest, life estate, or equitable interest as a contract purchaser of property; and

(2) during any two (2) year period;

a court may order the owner to pay treble damages based on the costs of the ordered action. The second or subsequent civil judgment may relate to the same property or a different property held by the owner.

SECTION 7. IC 36-7-36 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 36. Abatement of Vacant Structures and Abandoned Structures

Sec. 1. As used in this chapter, "abandoned structure" means

C
o
p
y



any of the following:

(1) Commercial real property or a vacant structure on commercial real property that is used or was previously used for industrial or commercial purposes:

(A) that the owner of the property or structure has declared in writing to be abandoned; or

(B) for which the owner of the property or structure has been given a written order by an enforcement authority to rehabilitate or demolish the property or structure and the owner:

(i) has not applied for a permit to rehabilitate or demolish the property or structure; or

(ii) applied for and was granted a permit, but rehabilitation or demolition work has not commenced on the property or structure within thirty (30) days after the date the permit was granted.

(2) Real property that has not been used for a legal purpose for at least six (6) months and:

(A) in the judgment of an enforcement authority, is in need of completion, rehabilitation, or repair and completion, rehabilitation, or repair work has not taken place on the property for at least six (6) months;

(B) on which at least one (1) installment of property taxes is delinquent; or

(C) that has been declared a public nuisance by a hearing authority.

(3) Vacant real property on which documented illegal activity has occurred on more than three (3) occasions during any six (6) month period.

(4) Property that has been declared in writing to be abandoned by the owner, including an estate or a trust that possesses the property.

(5) Vacant property on which a municipal lien has remained unpaid for at least one (1) year.

Sec. 2. As used in this chapter, "enforcement authority" has the meaning set forth in IC 36-7-9-2.

Sec. 3. As used in this chapter, "hearing authority" has the meaning set forth in IC 36-7-9-2.

Sec. 4. As used in this chapter, "owner" means a person that holds a substantial interest in property in the form of a known or recorded fee interest, life estate, or equitable interest as a contract purchaser.

C
o
p
y



1 **Sec. 5. As used in this chapter, "vacant structure" means a**
 2 **structure or building that is not being used for a legal purpose.**

3 **Sec. 6. The legislative body of a municipality or county:**

4 (1) **may adopt this chapter by ordinance; and**

5 (2) **if the legislative body adopts this chapter by ordinance,**
 6 **shall adopt rules and procedures for its enforcement.**

7 **Sec. 7. An enforcement authority may administer and enforce**
 8 **this chapter in conjunction with a civil action under IC 32-30-6,**
 9 **IC 32-30-7, IC 32-30-8, IC 36-1-6, or IC 36-7-9.**

10 **Sec. 8. If an enforcement authority determines that a vacant**
 11 **structure or an abandoned structure exists, an abatement notice**
 12 **and order may be sent to the owner that directs the owner to:**

13 (1) **abate the vacant structure or abandoned structure by**
 14 **cleaning and securing or boarding up the vacant structure or**
 15 **abandoned structure and the premises upon which it is**
 16 **located; and**

17 (2) **erect fences, barriers, berms, or other suitable means to**
 18 **discourage:**

19 (A) **access to the vacant structure or abandoned structure;**
 20 **and**

21 (B) **illegal dumping or littering on the premises upon which**
 22 **the vacant structure or abandoned structure exists.**

23 **Sec. 9. (a) An owner of a property that remains a vacant**
 24 **structure or an abandoned structure for at least ninety (90)**
 25 **consecutive calendar days may be liable for a civil penalty in the**
 26 **amount of five hundred dollars (\$500) per vacant structure or**
 27 **abandoned structure, not to exceed five thousand dollars (\$5,000)**
 28 **per structure per year, unless:**

29 (1) **documentation has been filed and approved by the**
 30 **enforcement authority that indicates the owner's intent to**
 31 **eliminate the vacant structure or abandoned structure status**
 32 **of the property;**

33 (2) **the owner is current on all property taxes and special**
 34 **assessments; and**

35 (3) **at least one (1) of the following applies:**

36 (A) **The structure is the subject of a valid building permit**
 37 **for repair or rehabilitation and the owner is proceeding**
 38 **diligently and in good faith to complete the repair or**
 39 **rehabilitation of the structure as defined in the**
 40 **enforcement order.**

41 (B) **The structure is:**

42 (i) **maintained in compliance with this chapter; and**

C
O
P
Y



(ii) actively being offered for sale, lease, or rent.

(C) The owner can demonstrate that the owner made a diligent and good faith effort to implement actions approved by the enforcement authority.

(b) If the structure continues to remain a vacant structure beyond the initial ninety (90) days described in subsection (a) and the owner does not meet any of the exceptions set forth in this section, the enforcement authority may continue to assess penalties each year on each structure in the following amounts:

(1) One thousand dollars (\$1,000) for the second ninety (90) calendar day period each structure remains a vacant structure or an abandoned structure.

(2) One thousand five hundred dollars (\$1,500) for the third ninety (90) calendar day period each structure remains a vacant structure or an abandoned structure.

(3) Two thousand dollars (\$2,000) for the fourth and each subsequent ninety (90) calendar day period thereafter each structure remains a vacant structure or an abandoned structure.

A civil penalty under this subsection may not exceed five thousand dollars (\$5,000) per structure per year.

C
O
P
Y

